

**IN THE UNITED STATES BANKRUPTCY COURT**  
**Northern District of Georgia**  
**Atlanta Division**

**In the Matter of:**

Eric M. Washington and Queen S. Washington	)	Case No. 12-73756-MGD
	)	
Debtors	)	Chapter 13
	)	
	)	Judge Mary Grace Diehl
<hr/>		
Eric M. Washington and Queen S. Washington,	)	
Movants,	)	
	)	
v.	)	Contested Matter
	)	
Wells Fargo Bank, N.A.	)	
	)	
	)	
Respondent.	)	
	)	

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that **ERIC M. WASHINGTON** and **QUEEN S. WASHINGTON** filed their **MOTION TO DETERMINE SECURED STATUS OF CLAIM OF WELLS FARGO BANK, N.A. AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE** with the Court seeking an order **Stripping Lien of Wells Fargo Bank, N.A.. upon discharge.**

**PLEASE TAKE FURTHER NOTICE** that the Court will hold a hearing on Debtors' **Motion** in Courtroom **1201**, United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia at **10:00 a.m.** on **January 23, 2013.**

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one). If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's office is: Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Spring Street, S.W., Atlanta, Georgia 30303.

You must also mail a copy of your response to the undersigned at the address stated below.

Dated: 12/10/2012

WOOD & WOOD, LLP

/S/ Maureen E. Wood

Maureen E. Wood, 142598

Attorneys for Debtors

Wood & Wood, LLP

1070 Iris Drive, S.W., Ste. A.

Conyers, GA 30094

(678) 509-1191

[maureenwood@woodandwoodllp.com](mailto:maureenwood@woodandwoodllp.com)

**IN THE UNITED STATES BANKRUPTCY COURT**  
**Northern District of Georgia**  
**Atlanta Division**

**In the Matter of:**

Eric M. Washington and Queen S. Washington	)	Case No. 12-73756-MGD
	)	
Debtors	)	Chapter 13
	)	
	)	Judge Mary Grace Diehl
<hr/>		
Eric M. Washington and Queen S. Washington,	)	
Movants,	)	
	)	
v.	)	Contested Matter
	)	
Wells Fargo Bank, N.A.	)	
	)	
	)	
Respondent.	)	
	)	

**MOTION TO DETERMINE SECURED STATUS OF CLAIM OF WELLS FARGO**  
**BANK, N.A. AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE**

COMES NOW ERIC M. WASHINGTON AND QUEEN S. WASHINGTON, by and through undersigned counsel, and files this Motion to Determine Secured Status of Wells Fargo Bank, N.A.. (hereinafter “the Creditor”) and to Strip Lien pursuant to 11 U.S.C. § 506(d) and states as follows:

1.

The Debtors filed a petition for relief under Chapter 13 of the Bankruptcy Code on September 24, 2012. The Court has jurisdiction of this matter pursuant to 28 U.S.C. §1334. This is a core proceeding under 28 U.S.C. §157(b).

2.

The Debtors own real property located at 1051 Cherry Laurel Drive, Lithonia, Georgia 30058, more particularly described as follows:

ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 99, 16<sup>TH</sup> DISTRICT DEKALB COUNTY, GEORGIA, BEING LOT 6, BLOCK D THE EVERGREENS SUBDIVISION UNIT I, AS PER PLAT RECORDED IN PLAT BOOK 86, PAGE 34, DEKALB COUNTY RECORDS, WHICH PLAT IS HEREBY REFERRED TO AND MADE A PART OF THIS DESCRIPTION, BEING PROPERTY KNOWN AS NO. 1051 CHERRY LAUREL DRIVE ACCORDING TO THE PRESENT SYSTEMS OF NUMBERING HOUSES IN SAID COUNTY, S MORE PARTICULARLY SHOWN ON CERTAIN PLAT OF SURVEY PREPARED BY DANIEL F. CONROY & ASSOCIATES, DATED OCTOBER 29, 1991.

3.

The Debtors' property is encumbered by two liens:

- (a) Wells Fargo Bank, N.A., account number 685894xxxx, holds the first priority security deed, recorded on January 29, 2009 at Book 12907, Pages 633-649, Instrument No. 2002-0016663 of the official records of DeKalb County. Said first priority security deed was assigned by MERS, Inc. as Nominee for Alliance Mortgage Company to Wells Fargo Bank, N.A. on May 16, 2012. Said Assignment was recorded at Deed Book 23044, Page 263 of the official records of DeKalb County. Wells Fargo Bank, N.A. has not yet filed a claim. However, the claim of Wells Fargo Bank, N.A. is anticipated to be filed at \$110,000.00.

(b) Wells Fargo Bank, N.A. account number 8941803, holds a second priority security deed, originally held by Wachovia Bank, N.A. and recorded on May 18, 2006 at Book 18724, Page 278, Instrument No. 0611000353 of the official records of DeKalb County. Wells Fargo Bank, N.A. has not yet filed a claim. However, the claim of Wells Fargo Bank, N.A. is scheduled at \$48,780.35.

4.

Based upon valuation of the DeKalb County Tax Assessor, the value of the Real Property is \$71,400.00.

5.

Accordingly, Wells Fargo Bank, N.A.'s second lien is completely unsecured.

6.

Pursuant to 11 U.S.C. §506(a), of Wells Fargo Bank's claim is wholly unsecured and is subject to a determination that the lien securing Wells Fargo Bank's claim is void upon entry of a discharge in this case. In re Tanner, 217 F.3d 1357 (11<sup>th</sup> Cir. 2000).

Wherefore, the Debtors respectfully request the Court to enter an order:

(a) Granting the motion; (b) determining the amount of the lien of Wells Fargo Bank, N.A. exceeds the value of the Real Property; (c) determining that Wells Fargo Bank, N.A.'s claim may be treated as an unsecured claim; (d) voiding the mortgage lien of Wells Fargo Bank, N.A. effective upon entry of a Chapter 13 discharge; and (e) granting such other and further relief as the Court deems appropriate.

Respectfully Submitted this 10th day of December, 2012,

WOOD & WOOD, LLP

/S/Maureen E. Wood

Maureen E. Wood, 142598

Attorney for Debtor

Wood & Wood, LLP  
1070 Iris Drive, S.W., Ste. A.  
Conyers, GA 30094  
(678) 509-1191  
[maureenwood@woodandwoodllp.com](mailto:maureenwood@woodandwoodllp.com)

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served the United States Trustee in the within and foregoing matter with a copy of the attached Motion To Determine Secured Status of Claim of Suntrust Mortgage, Inc.. and to Strip Lien upon Discharge by depositing the same in the United States Mail with proper postage affixed to:

Eric M. Washington  
Queen S. Washington  
3408 Lanier Lane  
Conyers, GA 30013

Mary Ida Townson, Chapter 13 Trustee  
Suite 2200-191 Peachtree St., N.E.  
Atlanta, GA 30303-1740

Served by Certified Mail  
Wells Fargo Bank, N.A.  
c/o Corporation Service Company, Inc., Registered Agent  
40 Technology Parkway South #300  
Norcross, GA 30092

Served by Certified Mail  
Wells Fargo Bank, N.A.  
Carrie Tolstedt CEO  
101 N. Phillips Ave  
Sioux Falls, SD 57104

Served by Certified Mail  
Howard I. Atkins, CFO  
Wells Fargo Bank, N.A.  
101 N. Phillips Ave  
Sioux Falls, SD 57104

Served by First Class U.S. Mail to:

Philip Barnes, Esq.  
2872 Woodcock Blvd., Ste. 100  
Atlanta, GA 30341-3941

A. Michelle Hart Ippoliti, Esq.  
McCalla Raymer, et al  
1544 Old Alabama Road  
Roswell, GA 30076

Molly B. Sutter , Esq.  
Shapiro & Swertfeger  
Suite 100  
2872 Woodcock Blvd.  
Atlanta, GA 30341

December 10, 2012

/S/ Maureen E. Wood

Maureen E. Wood, 142598

Attorney for Debtors

Wood & Wood, LLP  
1070 Iris Drive, S.W., Ste. A.  
Conyers, GA 30094  
(678) 509-1191